

THREE MEMBER DUE PROCESS HEARING PANEL
EMPOWERED PURSUANT TO 162.961 R.S.Mo.

Student's Name:

Parent's Name:

Local Education Agency: Crawford County R-1 School District
1500 Old Hwy. 66
Bourbon, MO 65441-0040

Representative of Local
Education Agency: Ms. Teri B. Goldman and Mr. John F. Brink
Mickes, Tueth, Keeney, Cooper, Mohan &
Jackstandt, P.C.,
720 Olive Street, Suite 500
St. Louis, MO 63101

Date of Report: July 14, 2000

Hearing Panel: Patrick O. Boyle, Chairman,
Ms. Dayna Deck and
Mr. Richard Staley

Three Member Due Process Hearing Panel
Empowered Pursuant to 162.961 R.S.Mo.
Order

Issue

Parent submitted a request that her year old son be permitted to obtain a high school diploma by completing his school to work program. The Local Education Agency (LEA) filed its Motion to Dismiss based upon parent's lack of standing to represent her adult son and, her failure to state an issue justiciable under IDEA.

Time Line

Parent's request for a due process hearing was received by the State Educational Agency (SEA) on January 26, 2000. An attorney entered her appearance for the LEA on February 28, 2000 and, requested an extension of time for decision. Panel chair by order of March 1, 2000 extended the time for decision to April 14, 2000. On March 14, 2000 the time for decision was extended to June 1, 2000 by consent of the parties. The LEA filed its Motion to Dismiss this proceeding on March 21, 2000 and raised the issues of parent's standing to seek a hearing on behalf of her adult son as well as the lack of an issue justiciable under the IDEA. The panel chair granted parent until April 24, 2000 to respond to the LEA's Motion to Dismiss. On April 17, 2000 the time for decision was extended to July 24, 2000 by consent of the parties.

An Order to show cause why the hearing should not be dismissed was issued to the parent on May 24, 2000 with a response due by June 12, 2000. The time for decision was extended to August 1, 2000 on June 1, 2000 at the request of the attorney for the LEA. This order dismissing the request is issued as of July 14, 2000.

Facts

Parent requested a due process hearing on January 26, 2000 in a letter stating that her son's date of birth is .

The LEA filed a Motion to Dismiss on March 21, 2000 based upon the parent's lack of standing to represent her adult son and, upon the failure to state a justiciable claim under IDEA.

Parent has not responded to the Motion to Dismiss or to the panel's order to show cause why this hearing should not be dismissed.

Order

The request for a due process hearing filed on January 26, 2000 is dismissed for failure of the parent to show her standing to represent her adult son and, for failure to state a request justiciable under IDEA.

Appeal Procedure

Either party has the right to appeal this decision within 30 days to a State Court of competent jurisdiction pursuant to Chapter 536 of the Revised Statutes of Missouri, or to Federal Court.

Panel Members Supporting Decision

Panel Members Opposing Decision

VIA FAX AND US MAIL

June 27, 2000

Patrick Boyle
Hearing Chair
755 Rue St. Francois
Florissant, MO 63031

Re: v. Crawford County R-I School District

Dear Pat:

I have reviewed the order you sent me in this case. I do not believe that the parent has to show cause as to standing to represent her son. Any party to a hearing may be accompanied by an individual, other than an attorney, who has "special knowledge or training with respect to the problems of children with disabilities." 34 C.F.R. 300.509 (a)(1). It is my understanding that is interpreted broadly to include another parent, parent advocates, paralegals and others. Therefore, the parent can represent her son at the hearing. It is a separate issue as to whether the parent of a year old can file for due process and I am not prepared to rule on that issue. However, since the parent has failed to respond to the Order and I assume you have contacted her to determine why she hasn't, I will agree to dismiss the due process request. I would like this letter attached to the order as my "concurring opinion."

Sincerely,

Dayna F. Deck
/enclosure with mailed copy